he is then working, the person producing such article is not considered to have manufactured an automobile part or accessory and tax does not apply on his sale of such article. For example, tax does not apply where a wire, hose, or board is cut to size in order to replace a damaged wire, hose, or board of an automobile truck, other automobile, or tractor.

(d) *Examples of articles taxable as parts or accessories.* Examples of articles which are taxable as parts or accessories are: Automobile air conditioners; baby seats for automobiles; automobile beds; automobile hammocks; automobile clutches; bottle warmers and heating pads designed to operate from an automobile cigarette lighter; automobile radio antennae; automobile license plate frames; automobile clocks; automobile mirrors and mirror brackets; purses for carrying parking meter coins or cases for carrying registration cards when designed for attachment to an automobile; safes primarily designed for use in taxable motor vehicles; electric bulbs primarily designed and adapted for use on automobiles; automobile floor mats; jacks of the mechanical or hydraulic bumper, screw, ratchet, scissors, or other type primarily designed to be carried as accessories in automobiles as distinguished from jacks designed especially for use in garages and repair shops; dollies of the type commonly known as converter dollies which are used as connectors to convert semitrailers to full trailers; tool kits recommended for use with automobiles; automobile seat covers of any construction whether they are ready-made or custom fitted; fitted truck top covers; glass cut to size for installation in automobiles; and automobile bearings, such as automobile crankshaft or connecting rod bearings.

(e) *Effective date.* This section shall be effective with respect to sales made on or after January 1, 1964. For the definition of parts or accessories applicable to sales thereof prior to such date, see § 40.4061(b)–2 of this chapter (Manufacturers and Retailers Excise Tax Regulations).

(f) *Cross references.* For provisions relating to the tax imposed upon:

(1) Tires and inner tubes, see section 4071 and the regulations thereunder contained in Subpart H of this part;

(2) Automobile radio and television receiving sets, see section 4141 and the regulations thereunder contained in Subpart J of this part; and

(3) Fare registers and fare boxes for use on buses and automobiles, see section 4191 and the regulations thereunder contained in Subpart L of this part.

[T.D. 6648, 28 FR 3633, Apr. 13, 1963, as amended by T.D. 6655, 28 FR 5235, May 25, 1963]

### § 48.4061(b)–3 Rebuilt, reconditioned, or repaired parts or accessories.

(a) *Rebuilt parts or accessories.* Rebuilding of automobile parts or accessories, as distinguished from reconditioning or repairing, constitutes manufacturing, and the rebuilder of such parts or accessories is liable for the tax imposed by section 4061(b) with respect to his sales of such rebuilt parts or accessories. Reboring or other machining, rewinding, and comparable major operations constitute rebuilding. The person owning the part or accessory being rebuilt is the manufacturer of the article and is liable for the tax on his sale of the rebuilt part or accessory. The tax attaches whether the machining or other operation is performed by the rebuilder himself or by some other person in his behalf. For example, the tax attaches with respect to sales of (1) rebuilt batteries, (2) rebabbited or machined connecting rods, (3) reassembled clutches after operations such as the resurfacing of clutch plates, (4) rewound armatures, (5) reassembled generators with armatures rewound by or for the person reassembling the generator, (6) reground or remetalized crankshafts, and (7) engines in which blocks are machined (such as cylinders rebored or new sleeves inserted with or without cylinders being rebored) or new blocks installed. For provisions relating to the sale price of rebuilt parts or accessories, see § 48.4062(b)–1.

(b) *Reconditioned parts or accessories.* The mere disassembling, cleaning, and reassembling (with any necessary replacements of worn parts) of automobile parts or accessories, such as fuel pumps, water pumps, carburetors,

distributors, shock absorbers, windshield-wiper motors, brake shoes, clutch disks, voltage regulators, and other parts or accessories, are regarded as reconditioning operations rather than the manufacturing or production of rebuilt parts or accessories. The sale of a reconditioned part or accessory is not subject to tax if previous to the reconditioning there had been a prior sale of such part or accessory in the United States. Any new taxable parts or accessories produced, or purchased tax free for use in further manufacture, and used as replacements in reconditioning such units are subject to tax when used by the reconditioner.

(c) *Repaired parts or accessories.* The tax does not apply to the amount paid for the repair of automobile parts or accessories for the owner thereof. Repairing consists of the restoration, whether by rebuilding or reconditioning, of an owner's part or accessory to usable condition for his own use rather than for sale. The person who performs the repairing must retain in his possession evidence or documents from which the nontaxable nature of the operation can be ascertained. Any person engaged in rebuilding parts or accessories for purposes of sale incurs liability for tax with respect to his own use of any part or accessory rebuilt by him for sale.

### § 48.4061–1 Temporary regulations with respect to floor stock refunds or credits on cement mixers.

(a) *In general*—(1) *Refund or credit.* Pub. L. 91–678 (84 Stat. 2062, Jan. 12, 1971) provides that if:

(i) A manufacturer, producer, or importer paid the tax imposed by section 4061 (relating to imposition of tax on motor vehicles) on the sale of a cement mixer after June 30, 1968, and before January 1, 1970, and

(ii) Such cement mixer was held by a dealer on January 1, 1970, for purposes of resale and was not used,

the manufacturer, producer, or importer is entitled to a credit or refund (without interest) of the amount of tax he paid on his sale of such cement mixer.

(2) *Time for filing claim.* The manufacturer, producer, or importer entitled to a credit or refund under subparagraph (1) of this paragraph shall file his claim for credit or refund on or before October 31, 1971, based upon a request submitted to the manufacturer, producer, or importer on or before July 31, 1971, by the dealer who held the cement mixer in respect of which the credit or refund is claimed. Before he files his claim for credit or refund, the manufacturer, producer, or importer shall either reimburse the dealer for the amount of tax he is claiming with respect to the cement mixer or obtain written consent from the dealer to claim such tax.

(3) *Other provisions applicable.* All provisions of law, including penalties, applicable in respect of the taxes imposed by section 4061 of such Code shall, insofar as applicable and not inconsistent with Pub. L. 91–678 apply in respect of the credits and refunds provided for in this section to the same extent as if the credits or refunds constituted overpayments of the taxes.

(b) *Definitions.* For purposes of this section:

(1) *Cement mixer.* The term ''cement mixer'' means:

(i) Any article designed to be placed or mounted on an automobile truck chassis or truck trailer or semitrailer chassis and to be used to process or prepare concrete, and

(ii) Parts or accessories designed primarily for use on or in connection with an article described in subdivision (i) of this subparagraph.

(2) *Dealer.* The term ''dealer'' includes a wholesaler, jobber, distributor, or retailer.

(3) *Held by a dealer.* A cement mixer shall be considered as ''held by a dealer'' if title thereto has passed to the dealer (whether or not delivery to him has been made), and if for purposes of consumption title to the cement mixer or possession thereof had not at any time prior to January 1, 1970, been transferred to any person other than a dealer. For purposes of paragraph (a) of this section and notwithstanding the preceding sentence, a cement mixer shall be considered as ''held by a dealer'' and not to have been used, although possession of such cement mixer has been transferred to another person, if such cement mixer is returned to the dealer in a transaction